BILL

Proposed to be submitted to the consideration of PARLIAMENT;



Correcting the Abuses, and supplying the Defects, in the internal Government of the ROYAL BOROUGHS, and in the manner of accounting for the Property, Annual Revenues, and Expenditure of the same, in that part of *Great Britain* called *Scotland*.

PREPARED BY

THE COMMITTEE OF DELEGATES.

WHEREAS the constitutions of the Royal Boroughs of Scotland were anciently free, the Mayors, otherwise called Provosts, and the Aldermen, otherwise called Bailies, and also the common Councils, having been annually elected by the free suffrage of the Burgesses, otherwise called the Honest Men of the Boroughs.

Recital of statutes.

AND WHEREAS, by an act passed in the Parliament of Scotland, in the year 1469, *c.* 29. titled, "*Officers in Boroughs should not be continued; the old Council should choose the new; they two choose the officers,*" it was ordained, That the old Councils should choose the new; and that the new and the old Councils, together with the Deacons of the crafts, should annually choose all officers pertaining to the town.

AND WHEREAS, by another act passed in the Parliament of Scotland, in the year 1474, *c.* 56. it was ordained, That four persons out of the old should be chosen yearly into the new Councils.

AND WHEREAS, by another act passed in the Parliament of Scotland, in the year 1487, *c.* 108. entitled, "Of choosing Officers in Boroughs," the act of Parliament made anent the choosing of officers in Boroughs was ratified and approved, and ordained to be put to execution.

AND WHEREAS the regulations, and modes of election, eſtabliſhed by the foreſaid three recited acts of the Parliament of Scotland, and the uſages following thereon, and now in obſervance, relative to the manner of electing the common Councils and Magiſtrates of the Royal Boroughs, in that part of Great Britain called Scotland, are inconſiſtent with the juſt liberties of the Burgeſſes in theſe Boroughs, the due adminiſtration of the property, revenues, and police of the ſame, and adverſe to the public good:

May it therefore pleaſe your MAJESTY,

The recited ſtatutes repealed.

That it may be enacted, AND BE IT ENACTED by the King's Moſt Excellent Majeſty, by and with the advice and conſent of the Lords Spiritual and Temporal, and Commons, in this preſent Parliament aſſembled, and by the authority of the ſame, That the three before recited acts of the Parliament of Scotland be, and the ſame are hereby repealed; and that all other laws, regulations, cuſtoms, ſets or conſtitutions of Boroughs, practices or uſages any way adverſe to, or inconſiſtent with, the modes of election of Magiſtrates and common Councils herein after eſtabliſhed, be, and the ſame are hereby for ever aboliſhed and made void.

All elections of common Councils and Magiſtrates annual.

AND, to the end that a ſalutary and liberal mode of election of common Councils and Magiſtrates in the Royal Boroughs of Scotland may be eſtabliſhed, BE IT ENACTED, by the authority aforeſaid, That, in all time coming, from and after Michaelmas day which ſhall be in the year 178 , all elections, both of common Councils and Magiſtrates, ſhall be annual; and that the annual elections of the common Councils, in all the Royal Boroughs of Scotland, ſhall commence on the ſame day, *viz.* the firſt Monday after Michaelmas, yearly, at ten o'clock in the forenoon, and continue till ſix o'clock in the afternoon; and ſhall alſo continue during the ſame hours of the five days immediately ſucceeding, unleſs the ſame ſhall be ſooner concluded by all the electors having voted, the votes to be given in the manner herein after mentioned; and that the annual election of Magiſtrates, and other office-bearers, ſhall be made at the times, and in the manner, alſo herein after appointed.

Number of members in common Councils.

AND BE IT ENACTED, by the authority aforeſaid, That, in all time coming, after Michaelmas day which ſhall be in the ſaid year 178 , the number of Magiſtrates, and other members compoſing the common Councils, in all the Royal Boroughs of Scotland, ſhall continue the ſame as they are at preſent, excepting where the number by the preſent practice is variable, and where the Deacons of incorporations are not at preſent *ex officio* members of the Councils, in which caſes, the numbers are to be aſcertained and increaſed as herein after mentioned.

Number where variable, to be fixed.

AND where, in any Royal Borough or Boroughs in Scotland, the number of Magiſtrates and other members in the common Council or Councils is variable

variable or uncertain, BE IT ENACTED, by the authority aforesaid, That in such Royal Borough or Boroughs, the first common Council or Councils to be elected under the authority of this act, shall consist of the same number of Magistrates and other members that composed the common Council or Councils at the Michaelmas election in the year 1783; and such number being so fixed, shall continue in all time thereafter, until the same is altered by Parliament.

Qualification of electors.

AND BE IT ENACTED, by the authority aforesaid, That in all elections of common Councils to be made under the authority of this act, in all the Royal Boroughs of Scotland, the electors shall be all actual Burgesses, entitled to the privileges of burgesship, according to the usage of the respective Boroughs, and who shall have resided within the Boroughs where they respectively claim a right of voting, at least twelve kalendar months preceding their being admitted on the rolls of electors herein after appointed: AND WHEREAS, the practice presently in use of admitting to the right of burgesship, all persons without distinction or particular qualification, may be liable to great abuse, IT is therefore hereby SPECIALLY PROVIDED, That none shall be entitled to be admitted on the rolls of electors, and to vote in the elections of common Councils, but such persons, as besides being actual and resident Burgesses as aforesaid, shall also be persons carrying on, or occupied in some trade, manufacture, art or profession within the Borough; or persons who, though they may have retired from business, shall have at some time, for the space of five years together, carried on, or been occupied in such trade, manufacture, art or profession within the Borough, or shall be heritors, or the husbands of heritrixes holding property within the Borough, in manner herein after mentioned: AND PROVIDED ALSO, AND BE IT ENACTED, That such Burgesses shall pay stent for their trade, manufacture, art or profession, or be householders paying public burdens within the Borough, where persons of their description are, by law, liable to any such, and where persons not paying stent, are not by law liable to pay public burdens, their being householders, with the other qualifications above mentioned, shall entitle them to be inrolled, and to vote in the elections of common Councils; excluding hereby, from all right of voting at such elections of common Councils, all honorary Burgesses, towns or trades servants, all domestic or menial servants; all persons receiving charity from the funds of any incorporation, or any other charitable establishment; and likewise all descriptions of persons disqualified from voting for Members of Parliament in Scotland, by any act of Parliament now in force, and particularly by the act of the 16th year of his present Majesty.

AND BE IT ENACTED, by the authority aforesaid, That, in the said elections of common Councils, no person shall be entitled to vote in the

double

double capacity of a guildbrother and a tradesman, and that the elections of the Guild or Merchant-counsellors, and of the Trades-counsellors, shall be made by the several bodies separately, where there are distinct bodies of trades and guildries, as herein after explained and provided.

Qualification of persons capable to be elected.

AND BE IT ENACTED, by the authority aforesaid, That all persons qualified to be electors of common Councils, in all the Royal Boroughs of Scotland, shall in like manner be capable of being elected into any office in Boroughs, and no other person or persons whatsoever.

Power of electing the Guild Counsellors in the guildry.

AND BE IT ENACTED, by the authority aforesaid, That in those Boroughs in which there are both incorporated trades, and established guildries or Merchant-counsellors distinct from those of the trades, the Guild or Merchant-counsellors may and shall freely, and without leet or restriction of any kind, be elected by the Burgesses of Guild, in a collective body, and in the form and manner herein after provided.

Power of electing Trades-Counsellors in the trades; and deacons, *ex officio* members of Councils.

AND BE IT ENACTED, by the authority aforesaid, That in these Boroughs also, the Trades-counsellors, both the Deacons and other Trades-counsellors, where, by the present usage, and the operation of this act, there may be any others, shall be elected by the several incorporations of trades, freely, and without leets or other control from the guildry or Councils, or any other person or power whatsoever; and that the whole Deacons of crafts so elected, shall be *ex officio* members of the common Councils, in all the Royal Boroughs of Scotland where there are incorporated trades, and established guildries or Merchant-counsellors, and shall enjoy all the powers, rights, and privileges of other Counsellors: PROVIDED ALWAYS, AND BE IT ENACTED, That where there are Trades-counsellors in Council, not in the capacity of Deacons, one of these Trades-counsellors shall be discontinued for every Deacon to be added to the Council by this act; but although there may be in particular Boroughs no Trades-counsellors who are not Deacons, or not so many as to be equal to the number of Deacons so to be added by this act, the representation of the Trades in Council shall nevertheless, in every Borough, consist of the whole Deacons of the incorporations, who are hereby declared to be members of the Councils *ex officio*, as aforesaid.

Provision where deacons were formerly to certain effects in Councils.

AND WHEREAS, it may happen in some Boroughs, that all or some of the Deacons of crafts do at present sit and vote in the Town-council on certain occasions, and to a certain effect only, and consequently, that the operation of this present act will be no more than to give such Deacons a right to sit and vote

vote in thoſe caſes in which they have at preſent no right to vote; AND WHEREAS it would be unequal in ſuch caſes to diſcontinue altogether a Trades-counſellor for each of the Deacons thus reſtored to their full right of ſitting and voting in Council, as the weight of the Trades in Council would be thereby diminiſhed: BE IT THEREFORE ENACTED, that in every caſe where a Deacon who formerly ſat in Council to a particular effect only, ſhall, by the operation of this act, become a Council-deacon to all intents and purpoſes, the Trades-counſellor, who, in caſe ſuch Deacon had before had no ſeat in Council, would have been by this act totally diſcontinued, ſhall be entitled in all time coming to ſit and vote in Council to the ſame extent and effect, to which the ſaid Deacon had right to ſit and vote prior to the paſſing of this act, and no farther.

Certain incorporations having formerly no voice in Councils, entitled to elect deacons.

PROVIDED ALWAYS, AND BE IT ENACTED, by the authority aforeſaid, That the ſeven incorporations in the borough of Montroſe, ſhall each of them be entitled to elect a Deacon; and that the Deacons ſo elected ſhall *ex officio* be members of the common Councils, to all intents and purpoſes, in the ſame manner as the Deacons of the other incorporations in the other Royal Boroughs of Scotland.

Power of electing Counſellors in the Boroughs, where there are not eſtabliſhed guildries and trades.

AND BE IT ENACTED, by the authority aforeſaid, That in all the Royal Boroughs of Scotland in which there are not both incorporated trades, and eſtabliſhed guildries or Merchant-counſellors diſtinct from thoſe of the trades, the common Councils ſhall be elected by the free ſuffrages of the Burgeſſes, of the deſcription and qualification before mentioned, in a collective body, and according to the forms herein after appointed.

Heritors to take an oath of truſt and poſſeſſion.

AND BE IT ENACTED, by the authority aforeſaid, That every Burgeſs claiming under the deſcription of an heritor, or the huſband of an heritrix, to be inrolled in the roll of electors, and to be entitled to vote under the authority of this act, ſhall, beſides being reſident, as already provided, be alſo himſelf, or his wife, if he claims as a huſband, infeft in property within Borough, and in poſſeſſion thereof, at leaſt twelve kalendar months before his being admitted on the ſaid roll of electors; and ſhall alſo, before his admiſſion, and as an indiſpenſable requiſite thereof, ſwear and ſubſcribe the following oath, which the keepers of the rolls are hereby authoriſed and required to adminiſter, and that the inrolment of any ſuch Burgeſs claiming as an heritor, or the huſband of an heritrix, without taking the ſame, ſhall be *ipſo facto* void.

I A. B. do, in the preſence of Almighty God, and as I ſhall anſwer to God at the great day of judgment, declare and ſwear, That the lands and tenements [or land and tenement, as the caſe may happen to be] for which I claim a right to be inrolled in the roll of electors of common Councils in this Borough of do really and truly belong to me, (in property or liferent, or to my wife or her heirs, as the caſe ſhall be,) and that I am in the real and actual poſſeſſion of the ſame, and do not hold the ſaid lands and tenements, or the qualification to vote thereon, in truſt for any perſon whatever; and that neither am I, nor, to the beſt of my knowledge or belief, is any perſon in my name, or on my account, bound, by word or writing, or in any manner of way, directly or indirectly, by private underſtanding, obligation of conſcience or of honour, or otherwiſe, to reinſtate the perſon from whom my ſaid right is derived, or his heirs, or to convey the ſaid right or benefit thereof to him or them, or any other perſon; and that I have not given, nor intend to give, nor to my knowledge has any of my predeceſſors or authors given, any promiſe, bond, obligation, or other ſecurity or writing whatever, which may tend to leſſen my right to, or intereſt in the ſaid lands and tenements, (or land and tenement, as the caſe may be,) directly or indirectly, or any bond, obligation, or ſecurity or ſecurities, for an equivalent ſum or value; and that neither I, nor any of my authors or predeceſſors, nor any perſon or perſons, to my knowledge, in my or their names, or on their or my account, or by their or my allowance, have given, or intend to give, any diſcharge of the warrandice, expreſs or implied, or of the obligations to purge incumbrances, contained in my rights to the ſaid ſubjects; nor have given or ſubſcribed, or intend to give or ſubſcribe, any deed limiting or reſtricting the ſaid warrandice or obligations to purge incumbrances, ſo as to defeat the effect of that warrandice, or of ſuch obligations, or any part thereof, in any manner of way; nor does it conſiſt with my knowledge, that the perſon from whom my ſaid right is derived, or his heirs, or any other perſon or perſons whatever, have any right or title, either now or eventually, to recover the ſaid lands and tenements, (or land and tenement,) from me or my heirs, or to leſſen my or their intereſt in the ſame, in any ſhape, or that the right is defeaſible in any manner of way; and I do farther ſolemnly ſwear that my right to and intereſt in the ſaid lands and tenements, as appearing on the face of my titles, are not colluſive nor nominal, nor fictitious, nor occaſional, nor created in order to evade the act of Parliament eſtabliſhing the qualification of electors of common Councils, under which I claim to be inrolled; that the ſaid lands and tenements are not veſted nor reſerved in me, by any device for creating votes, contrary to the intendment of the ſaid act of Parliament, or to evade the ſame, but are honeſtly, truly, and in good faith, a ſubſtantial and real eſtate, and independent title in me, without connection with any other party, and without equivocation, mental evaſion of any kind, or ſecret reſervation whatever: And that this is truth, as I ſhall anſwer to God.

AND

AND in order to facilitate the execution of the said elections of common Councils, BE IT ENACTED, by the authority aforesaid, That the common clerks of the several guildries, and of the several incorporations of trades, in the said Royal Boroughs in which there are both established guildries or Merchant-counsellors, and trades, and the common clerks of the said Royal Boroughs in which there are not established guildries or Merchant-counsellors, and trades, be authorised and required, and they are hereby authorised and required, on or before the first Wednesday of August, which shall be in the year 178 , to make up faithful and just rolls of all persons in their respective Boroughs, who, according to the qualifications herein before established, shall at that time be entitled, and claim to be inrolled as electors of common Councils, and to certify the same upon oath, in presence of any of the Magistrates of the several Boroughs for the time.

Rolls of Electors to be made up,

PROVIDED ALWAYS, That the said clerks of guildries and incorporations be, and they are hereby authorised and required to enter the rolls so made up by them, in the books of their several guildries and incorporations; and the said common clerks of the Boroughs in which there are not established guildries or Merchant-counsellors and incorporations, to enter the rolls so made up by them, in the books of the common Councils of their respective Boroughs: And which rolls of guildbrethren, and members of incorporations, shall be authenticated by the subscriptions of the Deans of Guild, and Deacons of the incorporations, respectively; and which rolls of Burgesses, in the Boroughs where there are not guildries or Merchant-counsellors and incorporations, shall be authenticated by the subscriptions of the chief Magistrates of these Boroughs; which attestations, the said Deans of Guild, Deacons and chief Magistrates, respectively, are hereby required to adhibit, so as the said rolls may not be vitiated, nor in any respect altered, except as is herein after appointed.

And booked and authenticated.

AND BE IT ENACTED, by the authority aforesaid, That in the first election of common Councils which shall take place, under the authority of this act, and in all subsequent elections of common Councils, no person or persons shall be entitled to vote, excepting those standing for the time on the said several rolls of electors, to be continued and kept, and having certificates of inrolment, and making oath as herein after mentioned.

No persons to vote but those on the rolls, and having certificates, and making oath.

AND BE IT ENACTED, that every clerk, Dean of Guild, Deacon, and chief Magistrate, or common Council, failing to perform the duties hereby imposed on them, in relation to the making up, certifying, and continuing

the

the ſaid rolls of electors, under the authority of this act, ſhall, for every ſuch offence, forfeit the ſum of L. 100 Sterling money, beſides the expence of recovery, to any elector firſt proſecuting for the ſame, to be ſued for by ſummary complaint in the Court of Seſſion, at any time within four kalendar months of the wrong complained of.

Clerks, &c. failing in their duty as to the rolls, to incur a penalty.

The rolls to be continued, and kept.

AND BE IT ENACTED, by the authority aforeſaid, That the ſeveral rolls of electors herein before deſcribed and appointed, ſhall be continued and kept under the authority and inſpection reſpectively of the ſaid guildries, incorporations, and common Councils, by their reſpective common clerks, in all the Royal Boroughs of Scotland, in all time coming; and in order that new electors may be admitted on theſe rolls, and that perſons deceaſing or removing from the Boroughs, or otherwiſe legally diſqualified, may be ſtruck off, BE IT ENACTED, by the aforeſaid authority, That for theſe purpoſes, the books of inrolments of the ſeveral guildries and incorporations, in thoſe Boroughs where theſe diſtinct bodies exiſt, and the common Council-books of inrolments in thoſe Boroughs where there are not eſtabliſhed guildries or Merchant-counſellors, and incorporated trades, ſhall be open yearly in time coming, four times in the year, at the ordinary places of the meetings of the common Councils, guildries, and incorporations aforeſaid, reſpectively, *viz.* the firſt Wedneſday of November, the firſt Wedneſday of February, the firſt Wedneſday of May, and the firſt Wedneſday of Auguſt, from nine o'clock in the forenoon, till ſix o'clock in the afternoon, at which times, it may, and ſhall be competent, for the ſeveral guildries and incorporations in thoſe Boroughs where there are guildries or Merchant-counſellors, and trades, and for the common Councils of thoſe Boroughs in which there are not eſtabliſhed guildries or Merchant-counſellors, and trades, to ſtrike *inſtanter* off the rolls of electors in their ſeveral bodies, upon objections made in manner after mentioned, by any Burgeſs ſtanding on the roll, the names of all perſons who are dead, and of all perſons who have removed their reſidence from the Boroughs, during the ſpace of twelve kalendar months preceding, and alſo of all perſons who are, by an alteration of circumſtances, legally diſqualified or incapacitated; and that it ſhall, and may be lawful and competent, on any of the four days herein before appointed, for any perſon or perſons, qualified as aforeſaid, to preſent his or their claim or claims of inrolment to the ſaid ſeveral bodies of guildries and incorporations, and to the common Councils of the Boroughs in which there are no guildries or Merchant-counſellors, and incorporations; which guildries, incorporations, and common Councils, reſpectively, ſhall be authoriſed and required, and are hereby authoriſed

Rolls to be open four times a-year, to ſtrike off diſqualified and receive new Electors.

authoriſed and required to adminiſter the neceſſary oath or oaths, and take the other proper and neceſſary evidence of the qualifications of claimants, herein eſtabliſhed, and to judge and determine thereon; PROVIDED ALWAYS, That the ſaid common Councils, guildries, and incorporations, reſpectively, ſhall continue their ſederunts *de die in diem* after the ſaid four days, reſpectively, until the claims of all perſons who ſhall offer the ſame any time before four o'clock in the afternoon of any of theſe four days, ſhall be determined on; PROVIDED ALSO, AND BE IT ENACTED, by the authority aforeſaid, That any one or more members of each of the ſaid ſeveral guildries and incorporations, and of the ſaid common Councils, where there are no guildries or Merchant-counſellors, and incorporations, ſhall be entitled to judge and determine, in all queſtions relating to the expunging or keeping perſons from, or admitting them on the ſaid rolls of electors.

No perſons to be ſtruck off the rolls, but in conſequence of objections lodged.

PROVIDED ALWAYS, AND BE IT ENACTED, by the authority aforeſaid, That it ſhall not be lawful to, nor in the power of the ſaid common Councils, guildries or incorporations, to ſtrike any perſon or perſons off the ſaid reſpective rolls of electors, unleſs in conſequence of objections lodged with them or their common clerks, reſpectively, at leaſt eight free days prior to any of the four days herein before appointed for expunging or keeping perſons from, or admitting them on the ſaid rolls of electors.

Penalties on non-attenders.

AND BE IT ENACTED, by the authority aforeſaid, That if on all or any of the four days, or at the continuations of the ſederunts, herein before appointed for ſtriking off diſqualified or receiving new electors, one member of each of the ſaid reſpective bodies of guildries, incorporations, and common Councils, ſhall not regularly attend, the abſent members of each body ſhall ſeverally forfeit the ſum of L. 5 Sterling, with the expence of recovery, to the perſons claiming to be inrolled on the days before mentioned, reſpectively, to be ſued for by ſummary complaint to the Sheriff of the county; the complaint to be competent at any time within two kalendar months of the abſence complained of.

Perſons aggrieved may apply for redreſs to the Court of Seſſion.

PROVIDED ALSO, AND BE IT ENACTED, by the authority aforeſaid, That all perſons having intereſt, and conceiving themſelves to be aggrieved by the acts and determinations of the ſaid common clerks in making up the firſt rolls of electors under the authority of this act, or by the acts and determinations of the ſaid guildries, and incorporations, and common Councils, or their quorum aforeſaid, in relation to the unjuſtly expunging or keeping perſons from, or admitting them on, the rolls

of electors, may apply for redreſs, by ſummary complaint, to the Lords of Council and Seſſion, at any time within four kalendar months of the date of pronouncing the act or determination complained of; after expiry of which period, no application, by complaint or otherwiſe, ſhall be competent.

Perſons preſenting complaints on theſe grounds, and failing, to incur double coſts.

PROVIDED ALWAYS, AND BE IT ENACTED, by the authority aforeſaid, that any perſon or perſons preſenting ſuch ſummary complaint againſt the acts and determinations of the ſaid common clerks, or guildries, or incorporations, or common Councils, in relation to the making up the ſaid rolls of electors, or expunging or keeping perſons from, or admitting them on the ſame, and failing in the object of his or their complaint, ſhall be ſubjected by the Court in the double coſts of ſuit, and that the amount of the coſts, ſo far as concerns the expenditure, ſhall be aſcertained by the oath of the agent in the cauſe who may have deburſed the ſame, and that it ſhall not be lawful to, nor in the power of the ſaid Court of Seſſion to modify all or any of the articles of the account of coſts, below the ſums allowed by the practice, or by the eſtabliſhed regulations in that behalf.

No alteration to be made on rolls of electors.

AND BE IT ENACTED, by the authority aforeſaid, That no alteration or alterations ſhall be made on the rolls of electors herein appointed to be kept, either by expunging perſons from, or admitting them on the ſame, otherwiſe than in the preciſe manner herein before preſcribed; and if any perſon or perſons whatever, ſhall take it upon him or them, to make any ſuch alteration or alterations, on the ſaid rolls of electors, or any of them, otherwiſe than as is hereby allowed, then ſuch perſon or perſons ſo acting, ſhall upon conviction, be ſubjected to the pains and puniſhments of wilful falſehood, by the law of Scotland, and ſhall, from thenceforth, be for ever incapable of enjoying the right of electing or being elected into any office in any of the Royal Boroughs of Scotland, or of voting in any affairs relating to the government and adminiſtration of the ſame; which puniſhments and diſability, may be inflicted on a proſecution, at the inſtance of any one or more elector or electors ſtanding on the roll.

Electors on the rolls, entitled to demand certificates of their inrolments.

AND BE IT ENACTED, by the authority aforeſaid, That at any time after the ſaid firſt Wedneſday of Auguſt, which ſhall be in the year 178 ; and at any time after the firſt Wedneſday of Auguſt, in every ſubſequent year in all time coming, it ſhall and may be lawful for every elector, ſtanding for the time on the ſaid ſeveral rolls of electors, to demand from the reſpective keepers thereof certificates of their inrolment, properly atteſted by the ſubſcription of the keeper of the rolls, on payment to him of the ſum of ſixpence Sterling money; and that any keeper or keepers, refuſing ſuch certificate to any elector

tor or electors ſtanding on the roll, ſhall be for ever incapable of holding the office of common clerk or keeper of the rolls, in any Royal Borough of Scotland, and ſhall beſides forfeit the ſum of L. 100 Sterling money, with the expence of recovery to the elector ſo demanding the certificate; which ſums ſhall be recoverable at the inſtance of the ſaid elector, to whom they are made payable, and which incapacity ſhall be declared at the inſtance of any elector ſtanding on the roll; both by ſummary complaint to the Court of Seſſion, provided ſuch complaint ſhall be brought at any time within four kalendar months of the wrong complained of.

Time of the firſt election of common Councils.

AND BE IT ENACTED, by the authority aforeſaid, That the firſt election of common Councils in all the Royal Boroughs of Scotland, under the authority of this act, ſhall commence on the firſt Monday after Michaelmas, which ſhall be in the year and ſhall continue during the time herein before limited, except where the elections are ſooner concluded, as ſaid is; and that in this election, and in every future annual election of common Councils, in all the Royal Boroughs of Scotland, in all time coming, the votes of the electors ſhall be given in the manner herein after preſcribed.

Form in which the incorporations of trades are to elect their Counſellors, and Conveners.

AND BE IT ENACTED, by the authority aforeſaid, That with reſpect to the election of the Trades-counſellors, in the Boroughs where there are guildries or Merchant-counſellors, and incorporations, the members of incorporations ſhall produce the certificates of their inrolments as after mentioned, and ſhall in other reſpects, give their votes in the election of their Deacons, who are to be Counſellors, *ex officio* as aforeſaid, in the ſame manner that is uſed and practiſed at preſent, and ſhall alſo, in the ſame manner, appoint theſe Deacons their delegates for electing the Deacon-conveners, and the remaining Trades-counſellors, where, by uſage, and the operation of this act, the trades are entitled to ſend more members to the Councils than their Deacons. AND BE IT ENACTED, That the ſeveral incorporations ſhall have power, and they are hereby empowered and required, in the ſame form and manner in which they elect their Deacons, to nominate alſo the perſons whom they would wiſh to have elected as the Deacon-conveners, and the other Trades-counſellors, and inſert their names in the commiſſions given to the delegates, and to inſtruct the delegates to vote for theſe perſons and no others; AND BE IT ENACTED, That the vote of any delegate, given otherwiſe than in terms of his inſtructions, ſhall be void as to the perſon or perſons in whoſe favour it is given, and ſhall be held to have been given for the perſon or perſons mentioned in the inſtructions of the delegate, ſo that the election of the remaining Trades-counſellors, beſides the Deacons, and alſo of the Deacon-conveners, ſhall always be made by the majority of incorporations

porations concurring in the appointment of any particular perſons, by the inſtructions given to their delegates, nominated in the manner already mentioned.

Elections of Trades-counſellors to be certified within 48 hours after they are concluded.

AND BE IT FARTHER ENACTED, by the authority aforeſaid, That within 48 hours after the concluſion of any election of Deacons and other Trades-counſellors, and Deacon-conveners, the Preſes and Clerk of the election, or other perſons acting as returning officers in thoſe elections, ſhall be bound, and they are hereby expreſsly required to make a certificate or return of the Deacons, and other Trades-counſellors, where there are any others, and of the Deacon-conveners duly elected, and deliver the ſame to the perſons elected, or any of them.

Perſons elected Trades-counſellors, beſides Deacons, and the Deacon-conveners, to be taken from the Trades by rotation.

PROVIDED ALWAYS, AND BE IT ENACTED, by the authority aforeſaid, That the perſons to be named Trades-counſellors, beſides the Deacons as aforeſaid, and alſo the Deacon-conveners, ſhall be taken from the ſeveral incorporations of trades annually, by rotation; and that the rotation ſhall begin with the oldeſt incorporation in each Borough, and ſo proceed through the whole incorporations regularly in the order of their ſeniority, where their ſeniority is known: AND BE IT ENACTED, That where the ſeniority of the incorporations is not known, the commencement and progreſs of the rotation ſhall be aſcertained and determined by the perſons in the different Boroughs, who ſhall compoſe the firſt common Councils to be elected under the authority of this act, and who, or a majority of them in life for the time, are hereby authoriſed and required to fix and aſcertain the ſame.

Incorporations to have the caſting vote by rotation.

PROVIDED ALSO, AND BE IT ENACTED, by the authority aforeſaid, That if, in any election of Trades-counſellors, beſides Deacons, or of Deacon-conveners, the incorporations ſhall be equally divided, one of the incorporations, ſo often as ſuch caſe may occur, ſhall have the caſting or deciſive vote, by rotation; and that the commencement and order of this rotation ſhall be aſcertained and determined in the ſame way and manner that is herein immediately before provided, relative to the rule of rotation, by which the perſons to be elected Trades-counſellors and Deacon-conveners, are to be taken out of the ſeveral incorporations.

The perſons who act as Preſes and Clerk in the elections of Guild Counſellors.

AND BE IT ENACTED, by the authority aforeſaid, That, at all elections of the Merchant or Guild-counſellors, under the authority of this act, in the Boroughs where there are eſtabliſhed guildries or Merchant-counſellors, and trades, the common clerk of the guild ſhall act as clerk, and, in caſe of his abſence

abſence or refuſal, any perſon appointed by the guildry; and the Dean of Guild ſhall act as Preſes at ſuch elections; and, in caſe of his abſence or refuſal, the oldeſt elector ſtanding on the roll; and in caſe of his abſence or refuſal, the next oldeſt elector on the roll; and ſo on, deſcending in the roll gradually, until one is found willing to act as Preſes.

Perſons who act as Preſes and Clerk in the elections of Counſellors, where there are not guildries and incorporations.

AND BE IT ENACTED, by the authority aforeſaid, That, at all elections of common Councils, under the authority of this act, in all thoſe Boroughs in which there are not both eſtabliſhed guildries or Merchant-counſellors, and incorporations, the chief Magiſtrate for the time ſhall act as Preſes; and in caſe of his abſence or refuſal, the other Magiſtrate next in rank; and in caſe of their abſence or refuſal, the oldeſt elector ſtanding on the roll; and the common clerk of the Borough ſhall act as clerk; and, in caſe of his abſence or refuſal, any perſon appointed by the electors, at the firſt election to be made under the authority of this act, and any perſon to be appointed by the common Councils at all future elections.

Form of voting the ſame in electing Guild Counſellors, and Counſellors for the Burgeſſes at large where there are not guildries and trades.

AND BE IT ENACTED, by the authority aforeſaid, That, at the firſt election of common Councils, and all ſubſequent elections to be made under the authority of this act, by the two ſeveral bodies of guildries and burgeſſes at large, laſt above mentioned, the votes of the electors ſhall be given *viva voce*, and taken as nearly as poſſible, in the order of time in which the ſeveral electors come to the poll, in the preſence and under the authority of the Preſes of each reſpective meeting of election, and ſhall be marked by the reſpective clerks, in books to be kept for the purpoſe, in ſuch manner as to ſhow both the names and deſignations of the electors ſo tendering their votes, and of the candidates in whoſe favour the votes of the ſeveral electors are given; and at the concluſion of every day's poll, in caſes where the election is not finiſhed in one day, the poll-books ſhall be committed to the cuſtody of the Preſes; and the candidates having the majority of votes at the concluſion of the whole election, ſhall be declared and certified by the Preſes and clerk to be the Counſellors duly elected, and the certificate or return ſhall be delivered by the ſaid Preſes and clerk, to the perſons ſo elected, or any of them; all within 48 hours after the concluſion of the whole election.

Perſons claiming to vote in all elections of common Council, to produce certificates of their inrolments.

AND BE IT ENACTED, by the authority aforeſaid, That all electors, offering their votes at all elections under the authority of this act, ſhall be bound, at the ſame time that they give their votes, to produce and deliver to the clerk, to be left with him, the certificates of their inrolments as electors, otherwiſe the votes of electors ſhall not be received or ſuſtained; nor ſhall any certificate dated prior to the firſt Wedneſday of Auguſt, in the year in which the election happens at which the electors offer their votes, be ſuſtained or admitted.

And depone on the verity of the certificates.

AND BE IT ENACTED, by the authority aforeſaid, That, beſides the oaths already required to be taken by electors of common Councils, by this act, and by the other laws preſently in force, all electors claiming to vote under the authority of this act, ſhall be bound to ſwear and ſubſcribe the following oath, to be adminiſtered by the Preſes of the meetings, if required by any elector preſent, otherwiſe the vote of any elector refuſing the ſame ſhall not be ſuſtained, nor ſhall the Preſes and clerk be bound to receive it.

I A. B. do, in preſence of Almighty God, ſolemnly ſwear, that the certificate now produced by me, is a true certificate, and that it was really and truly granted to me of the date it bears; and that I have not fraudulently obtained poſſeſſion thereof in any manner, or from any perſon or perſons whatever: And that this is truth as I ſhall anſwer to God.

Puniſhment of perſons taking oaths or uſing certificates falſely.

AND BE IT ENACTED, by the authority aforeſaid, That any perſon ſwearing falſely the laſt recited oath, relative to the certificate of inrolment, or the other oath herein before recited, or any other oaths which the electors of common Councils are by law bound to take, ſhall, upon conviction, be liable to the puniſhment of perjury by the law of Scotland; and that any perſon uſing falſely or fraudulently, or being actor, or art and part, in the forgery of any ſuch certificate, ſhall in like manner be liable to the puniſhment of forgery by the law of Scotland; and that proſecutions on theſe grounds ſhall be competent at the inſtance of any one or more elector or electors ſtanding upon the roll.

Penalties on refuſing good votes; and the votes ſuſtained.

AND BE IT ENACTED, by the authority aforeſaid, That any Preſes or clerk acting at any elections of common Councils, who ſhall refuſe to receive the vote of any elector ſtanding on the roll, and producing the certificate of his inrolment as aforeſaid, and willing to take the above recited oaths, and the other oaths required by law, ſhall for every offence forfeit the ſum of L. 100 Sterling money, with the expence of recovery, to the elector whoſe vote is refuſed to be taken, and who ſhall be entitled to ſue for the ſame by ſummary complaint to the Court of Seſſion, at any time within four kalendar months of the wrong complained of; and beſides, the vote of the elector ſo refuſed to be taken, ſhall be held to have been given to the candidates for whom the elector offered to give it, and ſhall be numbered among the votes admitted in making the certificate or return of the Counſellors duly elected.

Penalty on receiving unqualified votes.

AND BE IT FARTHER ENACTED, by the authority aforeſaid, That any Preſes or clerk, who, at any poll or meeting for election of common Councils

Councils under the authority of this act, ſhall receive the vote of any perſon not ſtanding on the roll, or not producing a certificate of his inrolment as aforeſaid, or not willing to ſwear the above recited oaths, and other oaths required by law, ſhall for every offence forfeit the ſum of L. 100 Sterling, with the expence of recovery, to any elector ſtanding on the roll, and firſt proſecuting for the ſame; to be ſued for by ſummary complaint to the Court of Seſſion; which complaint ſhall be competent any time within four kalendar months of the wrong complained of.

Penalties impoſed on preſiding officers and clerks making falſe or undue returns.

AND BE IT ENACTED, by the authority aforeſaid, That every Preſes and clerk, failing to make a certificate or return within the time aforeſaid, of the Counſellors duly elected, and every Preſes and clerk, making a falſe or undue return of a Counſellor or Counſellors, at any election of common Counſellors, ſhall for every offence forfeit the ſum of L. 200 Sterling money, with the expence of recovery, the one half thereof to any elector ſtanding on the roll, and firſt proſecuting therefor, and the other half thereof to the candidate or candidates to whoſe prejudice a falſe or undue return may be made; or in caſe of a failure to make any return, to the whole Counſellors equally, who were entitled to be returned; and that the whole of the ſaid penalty and expences may be ſued for by ſummary complaint to the Court of Seſſion, at any time within four kalendar months of the wrong complained of; and the ſaid Preſes and clerk, making a falſe or undue return as aforeſaid, ſhall, beſides, be for ever incapable of holding or enjoying the right of electing, or being elected, into any office in any of the Royal Boroughs of Scotland; and the Lords of Seſſion ſhall have power to declare this incapacity, by the ſame ſentence which ſubjects the offender or offenders in payment of either half of the ſaid pecuniary forfeiture.

Penalties for vitiating the poll-books or votes.

AND BE IT ENACTED, by the authority aforeſaid, That if any Preſes or clerk, having the cuſtody of the vote or poll-books and certificates of inrolment, or any other perſon or perſons, ſhall preſume to vitiate the ſame, or fraudulently to eraze or add any votes, or in any reſpect fraudulently to alter the ſtate of the poll or votes, ſuch Preſes or clerk, or other perſon or perſons, ſo acting, ſhall for every offence forfeit the ſum of L. 500 Sterling; and the expence of recovery, to any elector ſtanding on the roll, and firſt judicially demanding the ſame, to be ſued for by ſummary complaint to the Court of Seſſion, within four months of the wrong complained of; and ſhall beſides, by the ſame ſentence which finds him or them liable in the pecuniary forfeiture, be declared infamous, *infamia juris*, and be ſubjected to the whole legal conſequences thereof.

AND

Counſel and agents of candidates may attend;

AND BE IT ENACTED, by the authority aforeſaid, That it ſhall and may be lawful for every candidate, and his counſel and agent, to be preſent at elections, and ſee the votes marked by the Preſes and clerk, or other returning officer; and that it ſhall and may be lawful for every diſappointed candidate, and to every elector conceiving themſelves aggrieved by the falſe or undue return of any Preſes or clerk, or other returning officer, within twenty-four hours after the concluſion of any election, but not afterwards, to demand, and the Preſes and clerk, or other returning officer, are hereby authoriſed and required, in preſence of the common Council of the year preceding, to grant a ſcrutiny or examination of the poll or vote-books, and roll of electors, and alſo of the certificates delivered to the clerk as aforeſaid, which he ſhall be bound, and is hereby required, to keep and preſerve after every election, ſo as the ſaid common Council of the year preceding, at the deſire of the candidates or electors demanding the ſcrutiny, may, in preſence of the parties, and their counſel and agents, compare the poll or vote-books, and roll of electors, and certificates of inrolments, with the return made by the Preſes and clerk, or other returning officer, and may from thence and other evidence be enabled to determine who are the Counſellors having the majority of legal electors; which, in the event of a ſcrutiny, they are hereby empowered and required to do; and they are alſo hereby expreſsly enjoined and required to finiſh the ſaid ſcrutiny within the ſpace of eight days after the return made by any Preſes and clerk, or other returning officer of any election; and, in caſe of their failing to do ſo, they ſhall jointly and ſeverally forfeit the ſum of L. 300 Sterling, with the expence of recovery, to the perſon or perſons demanding the ſcrutiny, to be ſued for by ſummary complaint to the Court of Seſſion, at any time within four kalendar months after the wrong complained of; and the ſaid common Councils of the year preceding are farther hereby authoriſed and empowered, in making the ſcrutiny, to call for production of ſuch farther papers, and examination of ſuch evidences, as they ſhall judge neceſſary and proper; their judgments and determinations, and the returns of every Preſes and clerk, or other returning officer, where the Councils do not finiſh the ſcrutiny within the time aforeſaid, being always ſubject to the review of the Court of Seſſion, by ſummary complaint, at any time within four kalendar months from the date of the determination complained of.

And ſcrutiny may be granted.

Regulations concerning it.

Rolls of electors to be patent at the time of elections, and twenty days preceding.

AND BE IT ENACTED, by the authority aforeſaid, That during the time of every election of common Councils, in every Royal Borough of Scotland, and for twenty days preceding, from nine o'clock in the morning to ſix o'clock in the afternoon, the rolls of electors, herein before appointed to be kept, ſhall be patent to the inſpection of any elector demanding the ſame, *gratis*, in preſence of the keepers of the rolls, and any one or more

more members of the common Councils for the time; and that any elector, at any time demanding a copy of the roll of electors of the body in which he is an elector, or a copy of a part of a roll of electors, ſhall be entitled to receive the ſame, on payment of the ſtated and ordinary dues of copying papers of an equal length, the ſame in no caſe exceeding 5 s. Sterling: PROVIDED ALWAYS, That any keeper of any roll of electors, refuſing to give ſuch copy of the whole or part of any roll of electors, ſhall for every offence forfeit the ſum of L. 50 Sterling to the elector demanding the ſame, together with the expence of recovery thereof, both to be ſued for by ſummary complaint before the Sheriff of the county where the forfeiture is incurred, at any time within two kalendar months of the wrong complained of.

Electors demanding copies of rolls of electors, or parts thereof, entitled to receive the ſame.

AND BE IT ENACTED, by the authority aforeſaid, That the firſt election of common Councils, under the authority of this act, ſhall be held at ſuch convenient places within the Boroughs reſpectively, as may be appointed by the chief Magiſtrates of the Royal Boroughs for the time, who are hereby empowered and required to appoint the place of the ſaid firſt election of common Councils, in their ſeveral Boroughs, and to give due notice thereof to the electors, by cauſing the ſame to be intimated publicly in the church or churches of the reſpective Royal Boroughs, on a Sunday at the concluſion of divine ſervice, and alſo at the market-croſs of each Borough, fourteen days at leaſt prior to the day of election: PROVIDED ALWAYS, That every chief Magiſtrate failing to appoint the place of election, or to intimate the ſame as aforeſaid, ſhall forfeit to any elector ſtanding on the roll, and firſt judicially demanding the ſame, the ſum of L. 100 Sterling money, with the expence of recovery, to be ſued for by ſummary complaint to the Court of Seſſion, at any time within four kalendar months of the wrong complained of; and that failing ſuch appointment and intimation by the chief Magiſtrate of any Borough, a majority of the electors ſhall be entitled to hold and make the election in any place of the Borough they ſhall think proper.

Places at which the firſt elections under this act ſhall be held.

Chief Magiſtrates neglecting to appoint the places of ſaid firſt elections, to incur a penalty

AND BE IT ENACTED, by the authority aforeſaid, That every future election of common Councils, in all the Royal Boroughs of Scotland, in all time thereafter, ſhall be made at ſuch places within the ſeveral Boroughs, as may be made and appointed by the determination of the common Councils of the ſame, who are hereby authoriſed and required to make ſuch appointments, and to intimate the ſame to the electors, in the manner herein before preſcribed, in the intimation of the places of the firſt election to be made under the authority of this act, if the place of election in the preceding

Places of all ſubſequent elections under this act to be appointed.

ding year is to be changed: PROVIDED ALWAYS, That the members of every common Council, in time coming, failing to appoint the places of election, or to intimate the ſame, as aforeſaid, ſhall, for every offence, forfeit, to any elector firſt judicially demanding the ſame, the ſum of L. 50 Sterling money, with the expence of recovery thereof, for which the members of the common Councils ſhall jointly and ſeverally be liable; and which may be ſued for by ſummary complaint to the Court of Seſſion, at any time within four kalendar months of the wrong complained of; and it ſhall and may be lawful for a majority of the electors to hold and make the elections at the places where the immediate preceding elections were made.

Common Councils when elected to elect the office-bearers.

AND BE IT ENACTED, by the authority aforeſaid, That when the elections of common Councils ſhall be concluded in the manner herein before ſpecified, the perſons declared and certified by the returning Officers, to be the common Counſellors duly elected, ſhall take their places in the Council accordingly; and within two free days after their elections are ſo declared and certified, ſhall meet in the Council-chambers of their ſeveral Boroughs, and ſhall elect from among themſelves the ſeveral Office-bearers for the year, ſuch as Provoſts, Bailies, Deans of Guild, and Treaſurers; with this limitation only, that, in thoſe Boroughs in which there are eſtabliſhed guildries or Merchant-counſellors, and trades as aforeſaid, no perſon ſhall be capable of being elected Dean of Guild but a Guild-counſellor: PROVIDED ALWAYS, That the new Council and the Office-bearers ſo elected, ſhall, on the ordinary Council-day immediately ſucceeding, be ſworn into their reſpective offices by the old Council.

Election of Magiſtrates effectual, tho' ſome of the electors ſhould be afterwards diſqualified.

AND PROVIDED ALSO, AND BE IT ENACTED, That the election of Magiſtrates, and other Office-bearers to be made in this manner, ſhall ſtand good and be effectual, although one or more of the Counſellors thus electing the Office-bearers, ſhall, in the event of a ſcrutiny, be found not to be a Counſellor or Counſellors duly elected: But that when a Counſellor or Counſellors ſo found not to have been duly elected, ſhall be nominated an Office-bearer or Office-bearers, in ſuch caſe his or their nomination ſhall be void, and the common Councils ſhall have power, and they are hereby enjoined and required, within 48 hours after the concluſion of the ſcrutiny, to elect another Office-bearer or other Office-bearers, in the place or places of him or them who ſhall be found not to have been a Counſellor or Counſellors duly elected.

Penalty on Counſellors not electing Magiſtrates.

AND BE IT ENACTED, by the authority aforeſaid, That if the common Counſellors of any Borough, duly elected as aforeſaid, ſhall fail or neglect, within

in

in the time above limited, to elect the Magiſtrates and other Office-bearers, ſuch common Counſellors ſo failing or neglecting, ſhall forfeit jointly and ſeverally the ſum of L. 500 Sterl. money, with the expence of recovery, to any elector ſtanding on the roll, and firſt judicially demanding the ſame; which ſums may be ſued for by ſummary complaint to the Court of Seſſion, within four kalendar months of the failure or neglect complained of.

The new Councils and office-bearers to act during a ſcrutiny.

AND BE IT ENACTED, by the authority aforeſaid, That, during the dependence of any ſcrutiny, and notwithſtanding thereof, the perſons returned by the Preſes and Clerk of any election of common Councils under the authority of this act, to be the Counſellors duly elected, and alſo the Office-bearers elected by them, ſhall be entitled to uſe and exerciſe all the functions of common Counſellors and Magiſtrates, and to act accordingly; ſo as the common affairs of the Boroughs may, at no time, ſuffer any detriment.

Manner of citing perſons to anſwer complaints under this act.

AND BE IT FARTHER ENACTED, by the authority aforeſaid, That whenever any complaint is preſented to the Court of Seſſion, under the authority of this act, for redreſs of any of the wrongs herein ſpecified, the ſaid Court ſhall grant warrant for ſummoning the perſon or perſons complained of, upon fifteen days notice, and ſhall hear and determine the ſaid complaint ſummarily, without abiding the courſe of any roll; and ſhall allow the party who ſhall prevail their full coſts of ſuit in every caſe, except in the caſe herein before provided for, in which they are to award double coſts of ſuit.

Laws preſently in force, ſhall ſubſiſt ſo far as conſiſtent with this act.

AND BE IT ENACTED, by the authority aforeſaid, That the laws, regulations, and uſages, preſently in force and obſervance, in relation to the elections of common Councils and Magiſtrates of the Royal Boroughs of Scotland, ſhall continue and remain in force and obſervance, in ſo far only as they are conſiſtent with the rights and modes of elections, rules and regulations herein before eſtabliſhed, and in no other reſpect or reſpects whatever.

Recital of acts of Parliament relative to the auditing the accounts.

AND WHEREAS, by an act of the Parliament of Scotland in the year 1535, *cap.* 26. All Provoſts, Bailies, and Aldermen of Boroughs, were ordained to bring yearly to the Exchequer, at the day ſet for giving in their accounts, the account-books of their common goods, to be ſeen and conſidered by the Lords Auditors, if the ſame be ſpent for the common weal of the Borough.

AND WHEREAS, by another act of the Parliament of Scotland in the year 1693, *cap.* 28. it was provided, That every Royal Borough ſhould, betwixt and the firſt day of November then next, bring to the Lords of Treaſury and Exchequer, an exact ſtated account of charge and diſcharge, ſubſcribed

ſcribed by the then preſent Magiſtrates and Town-clerk, of the whole public goods and revenues, and of the whole debts, burdens, and incumbrances, that do affect the ſame.

AND WHEREAS the remedy provided by theſe ſtatutes, for preventing abuſes and miſapplications of the property and revenues of Boroughs, have, from very long experience, proved ineffectual,

Statutes repealed.

BE IT THEREFORE ENACTED, by the authority aforeſaid, That the ſaid two recited ſtatutes of the Parliament of Scotland in the years 1535, and 1693, in ſo far as they relate to the manner of accounting for the property, and revenues, and expenditures and debts of the Royal Boroughs of Scotland, be, and the ſame are hereby repealed; but without prejudice nevertheleſs to the validity and execution of theſe ſtatutes as formerly, in ſo far as concerns any accounts unſettled, and any mal-adminiſtration committed prior to the commencement of this act.

Manner of accounting for the common good of Boroughs.

AND to the end, that a proper and effectual method of annually accounting, in relation to the property, revenues, expenditure, and debts of the Royal Boroughs of Scotland, may be eſtabliſhed and maintained in all time coming, BE IT ENACTED, by the authority aforeſaid, That annually at the elections of the common Councils, the electors in the ſeveral Boroughs ſhall be empowered, and they are hereby empowered and required, to nominate ſeven Auditors of public accounts; and that in the Boroughs in which there are not eſtabliſhed guildries or merchant-counſellors and incorporations, theſe ſeven Auditors ſhall be nominated by the electors of the common Councils in a collective body; and that in thoſe Boroughs in which there are eſtabliſhed guildries or merchant-counſellors and trades, four of the ſeven Auditors ſhall be nominated by the guildry, and three by the incorporations of trades: PROVIDED ALWAYS, That all perſons who have been in the Councils of the year immediately preceding, or any preceding year or years remaining unaccounted for, ſhall be incapable of electing or of being elected any of the Auditors of public accounts.

Incorporations to have the caſting vote by rotation in the election of Auditors.

PROVIDED ALWAYS, AND BE IT ENACTED, by the authority aforeſaid, That if in the election of the ſaid three Auditors of public accounts, the incorporations ſhall, at any time, be equally divided, one of the incorporations, ſo often as ſuch caſe may occur, ſhall have the caſting or deciſive vote, by rotation; and that the commencement and order of this rotation ſhall be aſcertained and determined in the ſame way and manner that is here-

in

in before provided, relative to the rule of rotation, by which the Deacons-conveners, and the perſons to be elected Trades-counſellors, beſides Deacons, are to be taken out of the ſeveral incorporations.

Powers of the Auditors.

AND BE IT ENACTED, by the authority aforeſaid, That the ſaid Auditors of public accounts, when appointed, ſhall be authoriſed, and they are hereby authoriſed and required, to appoint a clerk, and to call for production before them, of the accounts of the property, revenues, and expenditure, and debts of the ſeveral Boroughs for the year, and alſo for any preceding year or years remaining unaccounted for, poſterior to the commencement of this act; and further alſo, to call for production of the vouchers and inſtructions of the ſaid accounts, and of all other evidence neceſſary and proper, and to proceed and determine in relation to the ſaid accounts as ſhall appear to them juſt; and particularly, to compel the attendance of witneſſes and havers of writings for examination and evidence: For which purpoſe, the Lords of Seſſion are hereby empowered and directed, on the application of any of the parties concerned in the accounting, to grant warrant for citing witneſſes and havers, in ſupplement of the authority of the ſaid Auditors of public accounts: PROVIDED ALWAYS, and be it enacted, by the authority aforeſaid, That the ſaid Auditors, before pronouncing any determination on the ſaid accounts, ſhall allow the ſame to remain open in their cuſtody, for the ſpace of twenty days at leaſt, for the inſpection of all the Burgeſſes, who ſhall be entitled to give in objections to any articles in the accounts; and which objections the Auditors ſhall be bound to receive, and to judge and determine thereon.

Auditors within a limited time bound to decide.

AND PROVIDED ALSO, That the ſaid Auditors ſhall be bound, and they are hereby commanded and required to pronounce their judgment or determination on the ſaid accounts, within three months of the time of their appointment; at leaſt within three months from the time the ſaid accounts ſhall be delivered to them, as after-mentioned; and, in caſe of their failing to do ſo, they ſhall jointly and ſeverally forfeit the ſum of L. 100 Sterling, with the expence of recovery, to any Burgeſs demanding the ſame, to be ſued for by ſummary complaint to the Court of Seſſion, any time within four kalendar months of the failure complained of.

Penalty on refuſing to deliver the public accounts to the Auditors.

AND BE IT ENACTED, by the authority aforeſaid, That any Magiſtrates and common Councils, or others, having the cuſtody of the public accounts of the property, revenues, expenditure and debts of the Boroughs, reſpectively, and vouchers and inſtructions aforeſaid, ſhall be bound, and they are hereby ex-

preſsly commanded and required to produce and deliver the ſame to the ſaid Auditors of accounts, nominated as herein before mentioned, or to one or other of them, or to their clerk, within twenty days of the date of their appointment; and, in caſe the ſaid Magiſtrates and common Councils, or others, having the cuſtody, as ſaid is, of the public accounts, and vouchers, and inſtructions thereof, ſhall fail or neglect, or refuſe to produce and deliver them to the ſaid Auditors of public accounts, as aforeſaid, ſuch Magiſtrates and Councils, or others, reſpectively, ſhall jointly and ſeverally forfeit the ſum of L. 500 Sterling, to the common funds of the Borough where the forfeiture is incurred, together with the expence of recovery; to be ſued for, by ſummary complaint, to the Court of Seſſion, at the inſtance of any Burgeſs, any time within four kalendar months of the wrong complained of.

Execution to paſs on decrees of the Auditors.

AND BE IT ENACTED, by the authority aforeſaid, That wherever the Auditors of public accounts ſhall find that any part of the property of the Borough has been unduly alienated, or any part of the revenues miſapplied, or any debt improperly contracted, they ſhall have power, and they are hereby authoriſed and empowered to pronounce a decree or decerniture for refunding the ſame, and indemnifying the Town, againſt the Counſellors by whoſe votes the undue alienation, miſapplication, or contraction was made; and letters of horning, by the authority of the Court of Seſſion, ſhall paſs on ſuch decree, on a charge of fifteen days.

Decrees of Auditors ſubject to appeals to the Court of Exchequer.

BUT PROVIDED ALWAYS, AND BE IT ENACTED, by the authority aforeſaid, That the judgments and determinations of the ſaid Auditors of public accounts, ſhall be ſubject to an appeal to his Majeſty's Court of Exchequer in Scotland; the appeal on the part of the objectors to the accounts to be competent at the inſtance of any ten Burgeſſes, who are electors of the common Councils in the Borough; and that the intimation of an order, on a petition of appeal, at any time during the ſitting of the Court of Exchequer, or a notorial intimation of a party's intention to appeal, during a vacation in the Court of Exchequer, ſhall operate a ſuſpenſion of the decrees of the Auditors, until the appeals are diſcuſſed: PROVIDED ALWAYS, That any party or parties, during a vacation in the Court of Exchequer, intimating an intention to appeal, ſhall preſent his or their petition of appeal within ſix days of the commencement of the Exchequer term next enſuing, otherwiſe ſuch party or parties ſhall be held to have paſſed from the appeal, and execution of the decree of the Auditors

tors shall proceed in the same manner as if no intimation of an intention to appeal had been made.

Those who preside at meetings to have casting votes.

AND BE IT ENACTED, by the authority aforesaid, That in every meeting of election, or of common Councils, for striking off from and receiving electors on the roll, and in every other meeting to be held under the authority of this act, the Preses of the meeting, in case of an equality of votes, shall have the decisive or casting-vote, besides his vote as a constituent member of the meeting in which he presides.

Proviso in case persons privately injured should fail to prosecute or insist in prosecutions.

AND BE IT ENACTED, by the authority aforesaid, That if any person or persons, who, as being privately injured, are, by this act, found entitled to any penalties, shall fail or neglect to prosecute for the same within the times and in the Courts aforesaid; or, having brought such prosecutions for penalties, shall not insist therein to a final conclusion and determination, it shall and may be lawful to any elector or electors standing on any of the said rolls of electors, to prosecute for the said penalties, where no prosecution at all has been instituted, and that in the manner, and at any time within four months after the respective periods herein before allowed to the persons injured, for bringing their complaints; and it shall also be lawful to any elector standing on the rolls as aforesaid, where a prosecution has been once brought and abandoned, by any person or persons privately injured, to insist in the same to a final conclusion and determination; and, in either case, to apply the sums recovered to his or their own proper use and behoof.

Proviso where persons shall abandon or relinquish prosecutions commenced.

AND BE IT ENACTED, by the authority aforesaid, That where any person or persons, to whom, in the capacity of any elector on the roll, or of any Burgess, any penalties are, by this act, made payable, shall abandon or relinquish any complaint or prosecution once commenced by him or them, it shall and may be lawful to any other elector on the roll, or any Burgess, respectively, to insist in such complaint or prosecution, to a final conclusion and determination, so often as the same may be abandoned or relinquished, and to apply the sums recovered in the same way and manner as the original or former prosecutor might have done.

What understood abandonment of a prosecution.

AND BE IT ENACTED, by the authority aforesaid, That any prosecution or complaint once commenced, shall be understood to have been relinquished or abandoned, if no step of procedure shall be had therein within the space of three weeks, during the sitting of any session in which it is depending, or if no final decision shall be pronounced therein within twelve months after

after the same is commenced, or begun to be insisted on by any other person than the original or former prosecutor, where a complaint or prosecution is relinquished or abandoned.

Persons insisting in prosecutions abandoned, to pay a share of expences recovered, to former prosecutors.

PROVIDED ALWAYS, AND BE IT ENACTED, by the authority aforesaid, That any person or persons, who, in the event of any complaint or prosecution being abandoned or relinquished, may take up and insist in the same to a conclusion, shall be bound, and he or they is and are hereby expressly required, in the event of his or their succeeding in the said complaint or prosecution, and recovering expences of process, to communicate a proportionable share of the expences so recovered, to the former prosecutor or prosecutors, or his or their heirs or assigns.